CITY OF NEWARK, ET AL. *v.* CENTRAL RAILROAD COMPANY OF NEW JERSEY, ET AL.

APPEAL FROM THE CIRCUIT COURT OF APPEALS FOR THE THIRD CIRCUIT.

No. 351. Argued November 21, 24, 1924.—Decided March 2, 1925.

1. New Jersey, by empowering a railroad company to have as many tracks within its specified right of way as it might deem necessary, and to erect suitable bridges to accommodate them, including draw bridges over navigable waters crossed, impliedly consented that, in the maintenance and improvement of the railroad, a draw bridge over Newark Bay, originally constructed with two tracks, might be replaced by a better one accommodating four tracks upon substantially the same location. Ls. N. J. 1860, c. 64. P. 381.
2. Both state and federal governments having consented to this replacement, it is unnecessary to decide whether the acts of Congress and approval of the plans by the Chief of Engineers and Secretary of War would be sufficient without the consent of the